(*b*) Will the Government be pleased to cancel the order?

MR. K. NARAYANAN PANDALAY (*Ag. Chief Secretary to Government*): (*a*) and (*b*) The question of withdrawing these orders is engaging the attention of Government.

Prohibition Orders on Dr. M. E. Naidu and others.

53. **MR. A. K. PILLAI** (*Karunagapalli*): Will the Government be pleased to state why the orders prohibiting Dr. M. E. Naidu of Nagercoil, Swami Satyavritan, Messrs. M. Mathunni, K. Kunjan Pillai and Kurur Nilakantan Nambutiripad from making public speeches or taking part in public meetings or entering specified areas are still kept in force?

MR. K. NARAYANAN PANDALAY (*Ag. Chief Secretary to Government*): The probibition orders against Mr. Kurur Nilakantan Nambutiripad have been withdrawn. The Government are considering the question of withdrawing the prohibition orders against the others.

MR. A. K. PILLAI (*Karunagapalli*): I repeat the question since the full answer to my question has not been given.

Will the Government be pleased to state *why* the orders, prohibiting Dr. M. E. Naidu of Nagercoil, Swami Satyavritan, Messrs. M. Mathunni, K. Kunjan Pillai and Kurur Nilakantan Nambutiripad from making public speeches or taking part in public meetings or entering specified areas, are still kept in force?

I thank you, Sir, for the assurance that Government are considering the withdrawal of the prohibition order. I wish to know *why* the orders are still kept in force.

MR. K. NARAYANAN PANDALAY (*Ag. Chief Secretary to Government*): Government propose to withdraw the orders and necessary action is being taken.

MR. A. K. PILLAI (*Karunagapalli*): Thank you, Sir.

DEMANDS FOR GRANTS.—(*contd.*)

DEMAND II—TAXES ON INCOME.

PRESIDENT: We will now proceed to the voting of demands for grants.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): Sir, I move for a grant of Rs. 14 lakh under Demand II—Taxes on income.

Motion 34.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): Sir, now, the taxpayer—

PRESIDENT: Speak up, please.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): Now, the taxpayers are assessed for income tax for a particular year on the income of the previous year. For a man to pay income tax this year on the income of the previous year, is sometimes very difficult. Some business men are not actually doing any business—

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MR. K. SIVARAMA PANIKKAR (*Shertallai*): I rise to a point of order. May I know whether Mr. Karayalar is entitled to make a speech when he has not made the motion?

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): Sir, I beg to make the following motion:

34. To reduce the allotment of Rs. 4,075 for Income Tax Inspectors by Rs. 100.

My object in moving this motion is to draw the attention of Government to the difficulties felt by many of the taxpayers in being assessed to income tax on the income of the previous year. Sometimes this entails great hardship on the taxpayer. A man may not have any business at all during a particular year. He might have done good business in the previous year. To ask him to pay income tax for this year, on the income that he derived last year, leads to very great difficulty for the taxpayer. In some cases, the taxpayer may die in the beginning of a particular year. It is really hard that he should be asked to pay income tax on his income shown in his accounts of the previous year. What I submit is that income tax for a certain year should be paid only the next year, on the income that has been derived during the year for which he is assessed to income tax. That is what is done in British India.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): May I draw the member's attention to Section 19 of the Regulation which enables him to get over the difficulty? That Section says that if, in a year, he finds that he is not making the profit made by him in the previous year, he may claim immediate adjustment or settlement.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): Anyhow much difficulty is experienced. The taxpayer has first to pay and then get refund next year. Asking him to pay for nothing and then making him apply for a refund leads to much difficulty for the taxpayer.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): That is not quite correct. Assessment for a particular year is calculated on the previous year's income.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): May I know whether Mr. Robinson is replying to Mr. Karayalar?

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): I am just correcting a mis-statement.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I think he can do that only in his reply and not now.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): The difficulty arises when one is asked to pay this year's income tax on the income shown by the accounts that he produced last year. That is really a very difficult task. As I said already, there are some cases in

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which the assessees are no more now, and such persons are asked to pay income tax this year on the basis of their income of the previous year. That is really a great difficulty. Therefore, what I would submit to Government is that a certain year's income should be assessed only in the succeeding year and not from the previous year's accounts. That is what is being done in British India.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I find it rather very difficult to understand Mr. Karayalar. Is not his last observation inconsistent with his previous statement?

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): I do not understand Mr. Subba Aiyar.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Nor do I understand Mr. Karayalar.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): I do not think the rules under the Income Tax Regulation have been properly understood by the member. What we are doing is, in the beginning of 1099, for example, to assess a person on the income shown in the accounts of 1098. Then after the end of 1099, or early in 1100, we make an adjustment. If the assessee did not get the income for which he was assessed, he gets a refund. If he gets more, we charge income tax on the unassessed balance. Under Section 19, he can claim immediate adjustment in case he fails to get the income for which he is assessed.

MR. C. P. TARAKAN (*Kunnatnad*): റീഫണ്ട് കിട്ടുന്നകാര്യത്തിൽ ഇപ്പോൾ എല്ലാവരും പ്രയാസപ്പെടുന്നകാര്യത്തെപ്പറ്റി അറിവുണ്ടോ?

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): If such cases are brought to the notice of Government, we will try to remove the defects, if any. The new Regulation comes into force from the 1st Chingam 1101; and if any difficulty is brought to our notice, we will do our best to remove it.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May I explain Sir, the position? I find it rather difficult to understand Mr. Karayalar. Having had something to do with the Income Tax Regulation, I think I may correct Mr. Karayalar's misapprehension.

In the first place, he says that it is wrong to assess a taxpayer on his previous year's income; because, in some cases, it may so happen that the assessee did not carry on any business at all during the year for which he has been assessed to income tax. Therefore he says it would be improper if a taxpayer is assessed on his income for the previous year.

In that case, as Mr. Robinson explained, he is entitled to a refund. He subsequently wound up by saying we must adopt the British Indian method of fixing the tax on the previous year's income. I believe he was a member of the House in the last Council also by which the Regulation was amended. There is now no question of refund nor any adjustment

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

next year, and I believe that will remove the misapprehension of Mr. Karayalar and Mr. Tarakan. At the instance of various companies and merchants that the principle followed should be the same as in British India, it has been decided to assess a person on the previous year's income. That is what the Amending Regulation proposes to do. Therefore I do not think there will be any difficulty, after the Amending Regulation comes into force. As for inconsistency, I believe some difficulty or injustice there will always be. Supposing a person has no income in the previous year and he has some business next year, at the outset, he will not be liable for any assessment. That is a matter in his favour. I do not therefore think that it is a matter for any serious misapprehension.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): In view of the explanation offered by Mr. Subba Aiyar, I withdraw the motion.

PRESIDENT: I take it that the House agrees to the motion being withdrawn.

The motion was, by leave, withdrawn.

Motion 35.

The following motion was not moved:

MR. G. RAMAN MENON:

35. To reduce the allotment of Rs. 6,232 under establishment by Rs. 480.

Motion 36.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I beg to move the following motion:

36. To reduce the total allotment of Rs. 14 lakhs under Demand II by Rs. 100.

My object in bringing the motion before the House is to draw the attention of Government to the necessity for revising the basis of assessment on account of income tax. That goes perhaps to the very root of the present Income Tax Regulation. But I wish the Government would revise the standard of taxation on incomes. As it is, a person who gets an income of Rs. 1,999 has to pay nothing, whereas a person who gets an income of Rs. 2,000 and odd has to pay a tax upon the entire sum of Rs. 2,000 and odd at a particular rate prescribed by the Regulation.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Not always so.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Not always, I know that. When it is Rs. 2,000, he has to pay. Even for an income of Rs. 2,040, I suppose he has to pay. The difference of Rs. 40, I suppose, is something which may be treated as *negligible*. Now, Sir, my

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contention is that it is a most illogical, a most unfair, system of taxation that we have introduced by the present Regulation. The right method is to tax only the *excess* over the margin of subsistence which we have already allowed in the case of persons getting Rs. 1,999 or Rs. 2,000. The margin should be allowed even in the case of those who are taxed under the present Regulation. That is the English method of taxation. When this Regulation was for the first time introduced in the Legislative Council of 1095, where we had a non-official minority, this particular question was mooted by myself; and—I suppose I am correct—the present Law Member, who was then a non-official member of that Council, also supported me in that direction. It is really interesting that in this Council we have on this side of the House to-day a particular member who has been responsible perhaps for several measures which we have been criticising and which may perhaps have to be criticised later on. It is also refreshing to note that we have got him here now and then to explain to us the justification for a particular provision in a particular Regulation. I hope that Mr. Subba Aiyar will not after all stick to the very view that he took then, perhaps owing to the exigencies of public service.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Certainly not; I am always open to conviction.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I hope so. I should certainly think that any fair-minded Government ought to take into consideration the illogical and inequitable assessment that now obtains under the present Income Tax Regulation. One may quote the British Indian Act; and that was exactly what was done by Mr. Subba Aiyar when he supported the measure and opposed my present proposal before the Council of 1095.

MR. K. K. THOMAS (*Kottayam*): Will the member be pleased to state what the principle underlying the Travancore Act is?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): It appears to me that it is absolutely indefensible and is not based upon any principle whatsoever. My own view is that the only wholesome principle is that which is adopted in Great Britain. There is no particular virtue in copying the British Indian enactments merely because they are in British India. It will be very well indeed if we can now and then travel beyond British India and adopt whatever is right and reasonable, independent of what they in British India or in any province of British India have done. I would therefore repeat that the earliest opportunity should be availed of to revise the present Income Tax Regulation so that it may be in accord with justice and equity.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): The member has suggested that, in cases where a person gets an income of more than Rs. 2,000, it is only the excess over Rs. 2,000 that should be taxed. Well, that simply means that we have to think whether we want revenue or not. Income tax was brought into existence at the instance of the public.

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MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I just point out that it does not mean that the rate will necessarily be the same always?

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): It was introduced at the instance of the public through the Sri Mulam Popular Assembly and the Council and the Regulation has been framed by this Council.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether the present basis of assessment was advocated in the Council and the Assembly?

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): Yes.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): We wanted that income tax should be introduced. But I suppose the basis of assessment was not approved of. The only non-official element which was responsible for the same in the Council of 1095 opposed it.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): I do not know who fixed the basis of the tax. I think Government did it. Anyhow this matter can be considered when the Act is under amendment next time.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Inasmuch as my name has been dragged in by Mr. G. Paramesvaran Pillai, I think I may explain a bit. I did not know what he was going to talk on this subject; otherwise I would have refreshed my memory on the point. But going upon my memory, I think Mr. G. Paramesvaran Pillai's argument is not quite sound for this reason. His object is that a person getting an income of Rs. 1,999 should not be taxed and that the excess of income above Rs. 1,999 alone should be taxed.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I did not fix the amount at all.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Rs. 2,000 or Rs. 2,500 whatever it may be, the minimum amount I say. That is just the thing that is being done. Because there is a Section in the Regulation (Section 14) which says that, if the income is above Rs. 1,999, the person who has to pay should not be worse off than if he were getting Rs. 1,999. In other words, in the assessment above Rs. 1,999, care is always taken to see that he should get at the least, after the payment of income tax, Rs. 1,999. That is what the legislature has done.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): What is the position of a man who is getting Rs. 2,500?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): He will not be worse off than he who gets Rs. 1,999.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Has he not got to pay tax upon the whole sum of Rs. 2,500?

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MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Rs. 1,999 is supposed to be the minimum. He must have that minimum even after the payment of tax.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): We should like very much to hear from Mr. Subba Aiyar as to whether the tax levied from a person getting Rs. 2,500 is not at the rate obtaining for every rupee of that income.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Yes. That is the case. My point is that he should get Rs. 1,999 after payment of tax whatever may be the income above Rs. 2,000. In other words, it is supposed that Rs. 2,000 is the minimum and that whatever the income he gets, he should not be worse off than the luxury portion which is taxable.

MR. K. K. THOMAS (*Kottayam*): Is it the luxury portion that should be taxed?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Yes, leaving the minimum of Rs. 1,999. I would request the Government to accept Mr. Paramesvaran Pillai's suggestion because it would be very favourable to the Government. This question was considered, and it would be found that the rate of income tax in England is very high, and they say after fixing a certain amount for the expenses of a bachelor if he is a bachelor, of his wife if he has a wife and of the number of children he has got, the expenses are fixed and after deducting these, the net income is taxed at a very high rate. The question here will be whether it is possible in this country to say what is absolutely necessary for a bachelor and for wife and for children. Taking into consideration the local conditions and the poor condition of the people, it was fixed as low as possible without leaving any discretion in the matter and without leaving it to the elaborate process of enquiry as to what should be deducted for a man for his expense, for his wife and children and all that. That is the sort of elaborate enquiry that will have to be made. In England, the rate was fixed after long experience and with statistics which we do not have here. Therefore, the next best thing was to adopt the rule which obtains in British India where no complaint was raised, and the same thing was adopted here where conditions are similar. But if Mr. G. Parameswaran Pillai is very particular that the present thing is not correct and that there should be a different method, I would certainly advise him as a non-official member to introduce a Bill for the good of the country.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Unfortunately, I may say that he was primarily responsible for shutting us out from introducing such Bills without the previous sanction of Government.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I suppose the member never applied for permission and the Government never refused it. Without trying it, how could he say that? He must first try.

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MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): We have no free hand in regard to finance bills.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I do not know whether he ever tried. The freedom is just the same in regard to finance bills as in the case of other bills.

MR. K. K. THOMAS (*Kottayam*): Sir, I have got very great pleasure in supporting the motion of Mr. G. Paramesvaran Pillai. I think the House agrees that the basis of assessment hitherto followed is not quite equitable. The excess portion, after leaving a margin for the subsistence not only of a man's wife but also his family, should alone be taxed; and any amendment to the Regulation keeping this in view will be quite welcome to this House as well as to the country, keeping in mind the super-incomes. The point of view of the Government *i. e.*, not bringing down the revenue may also be looked into. Withthese few words, I support the motion of Mr. G. Paramesvaran Pillai.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Am I to take it that Mr. Thomas is for increasing the rate?

MR. K. K. THOMAS (*Kottayam*): On super-incomes.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): In view of what has been said by Mr. Robinson, *viz.*, that this matter will receive consideration when the Income Tax Regulation is to be amended.—

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): When it is next amended.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Yes; when it is next amended, this question should be considered. But my only request is that, for this very radical change, the Income Tax Regulation deserves to be amended and that too very early. It should not be left to chance. I would urge the necessity of taking up the revision of the Regulation as early as possible. With that request, I withdraw the motion.

PRESIDENT: I take it that the House agrees to the motion being withdrawn.

The motion was, by leave, withdrawn.

PRESIDENT: I take it that the House votes Demand II, Rs. 14 lakh, on account of Taxes on Income.

The motion was carried and the grant was made.

DEMAND III—EXCISE DEPARTMENT.

MR. A. J. VAN ROSS (*Excise Commissioner*): I rise to move for a grant not exceeding Rs. 5·12 lakhs under Demand III—Excise.

Motion 37.

MR. S. SUBRAHMANYA KARAYALAR (*Pattanapuram* cum *Shencottah*): I beg to move the following motion:

37. *To reduce the allotment of Rs. 6,675 under Salaries of Inspectors by Rs. 100.*

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